

The Asia Foundation

Legal Accountability and Dispute Resolution (LADR) Program (Grant Agreement No. 492-G-SS-98-00032-00)

July 1, 2004 - December 31, 2004

Summary

This semi-annual report covers activities from July 2004 to December 2004 under the Legal Accountability and Dispute Resolution (LADR) program, which is part of the U.S. Agency for International Development's \$ 4,315,051 grant to The Asia Foundation.¹ LADR runs from September 14, 1998 to September 30, 2006. This program maintains its original goals of increased popular participation in and impact on the formulation of laws and policies; increased popular participation in ensuring accountability in the enforcement of laws and policies; and strengthened individual and organizational capacities. Specifically, this program aims to promote alternative dispute resolution processes within and outside the formal judicial system, ensure transparency and accountability in the judiciary, build stable constituencies for judicial reform, and strengthen public access to information in order to increase transparency and improve access to justice. Drawing on its long-standing partnerships with the courts, lawyers' groups and other Philippine stakeholders in addressing important legal and judicial reform issues, The Asia Foundation implements LADR through four major components, namely: (1) institutionalizing alternative dispute resolution processes; (2) ensuring judicial transparency and accountability; (3) building constituency for reform; and (4) strengthening public information and access to justice.

Between July and December 2004, The Asia Foundation continued to work with its existing partners and also forged agreements with a number of new partner institutions. The Foundation partners with these organizations in order to conduct activities that promote alternative dispute resolution processes within and outside the formal judicial system as a means to decongest court dockets, ensure transparency and accountability in the judiciary, build stable constituencies for judicial reform, and strengthen public information to increase transparency and access to justice. With the approval of the program expansion in September 2004, the Foundation is further advancing the program's objectives through case clearance and jail decongestion initiatives, enhancing the court's capacity through the use of *amicus curiae*, conducting gender training for the judiciary, and improving judicial accountability through clinical legal education programs.

¹ The Asia Foundation submitted a copy of the LADR Semi-Annual Report covering the period from January 2004 to June 2004 to the Development Experience Clearinghouse on August 19, 2004, as instructed under the Office of Regional Procurement (ORP) No. 18 dated August 19, 2003 and ORP No. 20 dated February 24, 2004.

Initiatives on alternative dispute resolution (ADR) processes undertaken during this period were either built on previous efforts in court-annexed mediation or were related to the April 2004 enactment of the Alternative Dispute Resolution law. Partnerships were entered with several organizations, such as the: (1) Philippine Judicial Academy on the training of mediators for cases filed with the Court of Appeals as well as of mediators in Cagayan de Oro City, including establishment of a mediation unit in the city; (2) Department of Justice on the drafting of the Implementing Rules and Regulations for the ADR law; (3) Council of Engineering Consultants of the Philippines for its nationwide awareness drive on the ADR law of 2004 and its impact on the construction industry, with focus on promoting arbitration; and (4) Philippine Chamber of Commerce and Industry on its business forums and area business conferences on the new ADR law.

Efforts to advance judicial transparency and accountability were pursued during this period by sponsoring the presentation at the Supreme Court of the Foundation-supported Social Weather Stations Survey on the State of the Judiciary and the Legal Profession. The attendees included senior officials of the Supreme Court, the Court of Appeals, Court of Tax Appeals, and Sandiganbayan. Court capacity enhancement activities geared towards achieving judicial accountability were also undertaken through the following initiatives: (1) specialized trainings for commercial court judges on recent developments in commercial law, including the new Anti-Money Laundering Act; (2) e-learning pilot project with family court and commercial court judges on psychological incapacity and electronic evidence; and (3) development of a manual on judicial writing for the Supreme Court.

To build constituency for the judicial reforms, the Foundation, in partnership with the Supreme Court, facilitated a second phase of the dialogs between the judiciary and the business sector. This expanded the “Chamber to Chamber” project’s reach to the foreign business community as well as included discussions about integrating mediation in business. Efforts to institutionalize a citizen’s feedback mechanism in the judiciary, in partnership with the Alternative Law Groups, Inc. as well as to strengthen media and judiciary relations with the Asian Institute of Journalism and Communications were also undertaken. Both initiatives were carried out in coordination with the Program Management Office of the Supreme Court.

Finally, efforts to strengthen public information to increase transparency and access to justice were undertaken through partnerships with the Lawyers League for Liberty and the Humanitarian Legal Assistance Foundation on the conduct of three Supreme Court-initiated studies that aim to improve access to the justice system and increase efficiency of court systems and procedures. The studies relate to (1) free legal aid to the disadvantaged; (2) rules on summary procedure; and (3) scope of recognizance. These studies will be presented to lawyers, judges and other stakeholders nationwide for validation. The Foundation also provided support to the Supreme Court’s Program Management Office on its conduct of the “National Forum on Access to Justice through Reforms in the Five Pillars of the Justice System”. Other projects included initiatives to

decongest the Philippine jails of overstaying prisoners, to popularize the Code of Muslim Personal Laws for Muslim women communities, and to facilitate an online public commenting facility at the National Telecommunications Commission.

During the period covered by this report, The Asia Foundation awarded fourteen new grants to eight partners. Of the eighteen grants issued in the preceding reporting period, nine are still ongoing and the rest were completed at the close of this reporting period.

Summary of Significant Activities and Outcomes of the Period

Towards the Institutionalization of Alternative Dispute Resolution Processes

Court-Annexed Mediation Project Evaluation. In July 2003, The Asia Foundation supported the evaluation of the Philippine Judicial Academy's court-annexed mediation project. This was undertaken through the conduct of evaluation workshops and a survey with stakeholders in the pilot areas of Davao City, Cebu City, and Metro Manila. LADR grantee, Social Weather Stations, conducted mail surveys and face-to-face interviews with a total of 520 judges, lawyers, mediators, and disputants who have experienced court-referred mediation. An Action Planning Workshop that culled the output of the activities was held in July 2004.

Among the action points that were generated from this activity are: (1) expansion of the scope of cases that can be mediated; (2) concerns relating to mediators, such as fees, education, qualifications, specialization, reports, and evaluation; (3) improvements in the mediation process, specifically on the distribution of cases, sanctions for non-compliance, and period of mediation; (4) increase in ADR information and education; and (5) the establishment of an appropriate office within the Supreme Court that will effectively manage the mediation system.

The results of this activity are being reviewed along with proposals submitted by the Philippine Judicial Academy to (1) launch a nationwide court-annexed mediation initiative, and (2) study the financial and organizational aspects of the Philippine Mediation Center which at the moment is under the supervision of the Philippine Judicial Academy. The study might include a recommendation to transfer the management of court-annexed mediation to the Office of the Court Administrator.

Regional Mediation Training and Establishment of the Philippine Mediation Center Unit in Cagayan de Oro City. This project took off from the initial efforts of the Philippine Judicial Academy in piloting court-annexed mediation in Metro Manila, Cebu and Davao City. The success of the initiative encouraged the Academy to expand to other judicial areas of the country. During the reporting period, they conducted mediation training and internship activities in Cagayan de Oro where the Academy received valuable support from the Chamber of Commerce and the local government unit.

As of this reporting period, the Philippine Judicial Academy has trained fifty-one mediators from the legal, business, and academic professions. They have also conducted an Advocates' Forum on Mediation with local judges and court personnel, and a Seminar Orientation to promote the use of mediation among lawyers. As of this period, a total of 376 cases have been referred to the Philippine Mediation Center Cagayan de Oro unit, established under this project, for possible mediation. Of the 184 cases already mediated, 84% have been successfully settled.

It is worthwhile to note that this court-annexed mediation is the first attempt of the Philippine Mediation Center and the Philippine Judicial Academy to train mediators using their own curriculum and case studies which were both developed with Foundation assistance. The Cagayan de Oro court-annexed mediation is now the model for all other courts in the country. The initial success of this model has prompted the Canadian International Agency for Development (CIDA)-funded court-annexed mediation project, known as the Justice Reform Initiatives Support Project or JURIS, to request The Asia Foundation to have Cagayan de Oro as one of its sites (currently comprising San Fernando, Pampanga and Bacolod.) This is an indication that the work of LADR is being recognized by other foreign-assisted projects.

Court of Appeals Mediation Trainer's Training Project. This LADR activity aims to strengthen the training capability of the Philippine Judicial Academy in developing court-annexed mediators, particularly, Court of Appeals mediators. In collaboration with the Singapore Mediation Center², the project developed a core of mediation trainers consisting of 10 senior lawyers and 10 members of the academe, business and professional training organizations. This core of trainers was selected from a number of applicants, who had to undergo a rigid screening process. A curriculum review and case development workshop was subsequently held among the mediation trainers in order to develop an effective mediation training program for the appellate court. The revised curriculum and cases developed in the workshop was used by the mediation trainers in the training of newly recruited Court of Appeals mediators who are all required to come from the legal profession. Two batches were trained composed of retired Court of Appeals Justices, retired judges, senior members of the Philippine Bar, and senior faculty members of law schools.

The gains of this project are envisioned to pave the way for a second phase of the project where the trained mediators would go through an internship process and would be given the opportunity to experience mediating actual cases brought to the appellate court. It is envisioned that the Court of Appeals mediation project will significantly reduce the more than 22,603 case backlog of the appellate court³.

² Singapore Mediation Center (SMC) is the flagship mediation center of Singapore. SMC was officially launched by its Supreme Court Chief Justice and guaranteed by the Singapore Academy of Law.

³ This figure is based on the statistics on the number of civil, criminal and special cases pending in the Court of Appeals as of 2003.

Drafting of the Implementing Rules and Regulations for the Alternative Dispute Resolution Law of 2004.

The Asia Foundation assisted the Department of Justice in carrying out its task of facilitating the formulation of the Implementing Rules and Regulations for the recently enacted legislation on Alternative Dispute Resolution (ADR). Pursuant to the ADR law, the Department of Justice convened a Technical Working Committee, consisting of representatives from the Department of Trade and Industry, the Department of the Interior and Local Government, the arbitration and mediation professions, ADR organizations, and the President of the Integrated Bar of the Philippines. During the reporting period, the Technical Working Committee completed the draft of the Implementing Rules and Regulations for the ADR law for submission to the Joint Congressional Oversight Committee. Lawyers of The Asia Foundation sat in and contributed to the work of the Technical Working Committee.

Congress is expected to conduct the necessary public consultations beginning in January 2005 to aid in its review and approval of the draft implementing rules. Once the implementing rules are approved, the Department of Justice, with support from LADR, will publish a manual, primer and pamphlets on the Implementing Rules and Regulations for the ADR law.

Nationwide Awareness Drive on the Alternative Dispute Resolution Act of 2004 and its Impact on the Construction Industry.

Following the enactment of the ADR law of 2004, which re-affirmed the jurisdiction of the Construction Industry Arbitration Commission over construction disputes and mandated the referral of all pending construction cases in courts to the Commission for arbitration, the Council of Engineering Consultants of the Philippines is conducting a nationwide awareness campaign on the impact of the new law. The awareness campaign will target the construction industry, particularly discussing the advantages of availing the Commission's ADR facilities over court litigation and procedures.

An awareness campaign and the adoption of ADR is particularly important to this industry. The Asia Foundation notes that during the period from January 1989 to August 2004, a total of 409 cases were filed with the Construction Industry Arbitration Commission for arbitration. Of this number, 294 have been resolved by the Commission. This figure does not consider the fact that not many construction disputes were actually filed with the Commission and numerous cases have been lodged in the courts due to the public's lack of awareness of the existence of the Commission, misperceptions about the jurisdiction of the Commission, and lack of understanding of the advantages of arbitration over litigation.

The awareness drive was first launched in November 2004 in Manila and was well-attended by arbitrators and members of the business sector and construction industry. The campaign will also be carried out in the regional centers of the country, primarily targeting the major industry stakeholders, such as big and small contractors, project owners, financial institutions, regulatory boards, designers, consulting organizations, fabricators, material manufacturers, suppliers, and distributors, project managers,

bondsmen, and issuers of insurance bond required in construction contracts. This is being undertaken in coordination with the Construction Industry Arbitration Commission, the Philippine Constructors Association, the Philippine Technological Council, and the Confederation of Filipino Consulting Organizations.

Expanding Business Sector Awareness and Use of Alternative Dispute Resolution Mechanisms (Component Two). Drawing from its articulated commitment to promote ADR mechanisms as means to resolve business conflicts, the Philippine Chamber of Commerce and Industry implemented a series of activities to foster awareness and acceptance of ADR, particularly mediation, as an alternative to court litigation and to promote out-of-court settlement of business disputes. In the preceding period, the Foundation provided support to the Philippine Chamber of Commerce and Industry to conduct a National Strategic Planning Workshop for its officers and members. The workshop succeeded in increasing appreciation for ADR and generated support for the inclusion of ADR in the work programs of the local chambers, regions, and areas.

During this reporting period, the Philippine Chamber organized (1) a small group discussion on the ADR law for Metro Manila local chambers and business organizations that are signatories to the ADR Covenant⁴, including other concerned organizations; (2) a forum on the ADR law with the chamber's extensive national business network that tackled the impact and benefits of ADR to the business sector; and (3) area business conferences where a plenary session was devoted to ADR. Resolutions formulated during these conferences form part of national resolutions passed during the Philippine Business Conference, and presented to the Philippine President for consideration.

The Philippine Chamber of Commerce and Industry is currently working on the eventual setting up of an ADR unit in its Manila office and satellite mediation units in the regions.

Judicial Transparency and Accountability

Presentation of the Survey on the State of the Judiciary and the Legal Profession. In September 2003, The Asia Foundation provided support to the Social Weather Stations in implementing a survey of the opinions and attitudes of judges and lawyers on the state of the judiciary and of the legal profession. This was a replication of a similar series of Foundation-sponsored surveys conducted by the Social Weather Stations from 1993 to 1996 and was intended to find out if there have been any changes in the attitudes and

⁴ The Covenant on Alternative Dispute Resolution was signed on April 21, 2004 by the heads of the Philippine Chamber of Commerce and Industry, Chamber of Commerce Philippines Foundation, the Management Association of the Philippines, Employers' Confederation of the Philippines, Personnel Managers' Association of the Philippines, Filipino-Chinese Chambers of Commerce and Industry, Inc., Federation of Philippine Industries, and the Philippine Exporters Confederation. The Covenant specified that its signatories will (1) actively pursue the promotion of ADR in the business sector, (2) advocate among its members the use of an ADR clause in all their contracts, (3) push the establishment of Business ADR units to address the needs of the business sector, and (4) lead in increasing public awareness, acceptance and use of ADR in the country.

opinions on the state of the judiciary and the legal profession, particularly on the administration of justice and judicial problems and solutions, given the new environment of judicial reform.

The survey indicated some improvements but also noted recurring problems in the judiciary and the legal profession. The survey results were presented in September 2004 to the top officials of the Supreme Court, the Court of Appeals, Court of Tax Appeals, and Sandiganbayan, and subsequently to the USAID. In coordination with the Lawyers' League for Liberty and the Supreme Court's Program Management Office, the results will also be presented to the public as well as to the first and second level court judges in January and February 2005.

Court Capacity Enhancement Activities to Achieve Judicial Accountability. The Asia Foundation supported the Philippine Judicial Academy in undertaking four court capacity enhancement activities that are geared towards achieving judicial accountability.

The Philippine Judicial Academy initially organized a 3-day seminar-workshop to keep commercial court judges abreast of recent developments in commercial law, particularly in corporate rehabilitation and dissolution proceedings, intellectual property, and the effects of consolidation of jurisdiction with special commercial courts. A concrete output of this project was the publication of a *Handbook on Intellectual Property* and a *Handbook on Corporate Jurisdiction of the Regional Trial Courts and the Securities and Exchange Commission* that could serve as useful resource materials for judges. In pursuit of the same objective and in line with a Supreme Court issuance designating all commercial courts as Special Anti-Money Laundering Courts, the Academy likewise organized a specialized training course on the new Anti-Money Laundering Act for commercial court judges⁵. These activities were held in September and October 2004.

During this period, the Philippine Judicial Academy also launched an E-learning pilot training course as part of its initiative to address the continuing legal and skills training needs of the judges, many of whom do not have the luxury of time to physically attend training activities. This activity was supported mainly because it explores new methods of providing training for the judiciary through the use of the internet for faster and more efficient delivery of continuing judicial education. The E-learning pilot training enabled more than 100 family court and commercial court judges in the country to sample for two months (beginning in December 2004) on-line training courses on Psychological Incapacity and Electronic Evidence. Usage of the modules is being monitored by the Philippine Judicial Academy for purposes of generating feedback and findings on the activity. The launch of these modules is a prelude to the development of additional courses and the ability of the Philippine Judicial Academy to serve as an "e-Academy".

⁵ The Anti-Money Laundering training course was also supported by the USAID-Rule of Law Effectiveness project and the American Bar Association Asia Law Initiatives.

Another effort that seeks to enhance the capacity of the judiciary which was spearheaded by the Supreme Court's Program Management Office is the development of a *Manual on Judicial Writing for the Supreme Court of the Philippines*. This material is intended to guide the Supreme Court justices, their lawyers, and legal researchers in the drafting of their decisions, memoranda, and other legal documents. This will provide an almost uniform reference material that will help improve the presentation of decisions and other legal documents. Aspects covered include format, case captions, party designations, case citations, abbreviations, punctuations, capitalization, and case progression. The first draft of the manual has already been submitted for comments as of this period. The final output, expected to be accomplished in March 2005, will be presented for approval and validation of the Justices, selected lawyers and legal researchers from the Supreme Court in a workshop activity.

Court Monitoring. The Paglilingkod Batas Pangkapatiran Foundation received project support in April 2003 to facilitate the participation of civil society in court reform initiatives through informed and purposive monitoring of courts located in three cities in Mindanao: Davao, Cagayan de Oro, and General Santos. During the period of its implementation, the project succeeded in developing monitoring framework and tools for use of the court monitors. A total of 111 court monitors (72 females and 39 males), consisting of members from civic and religious organizations from the target cities, was trained through court exposure, lectures, and workshops for effective court monitoring. A total of 184 court observation visits was conducted by the monitors using the developed tool where they filled out questionnaires focusing on the over-all court situation and behavior of judges, court personnel, and lawyers before, during, and after the court sessions.

Discussions are underway about supporting the ideas of (a) refining the questionnaires used by the monitors; (b) utilizing law interns in reviewing selected cases; (c) finalizing recommendations to the Supreme Court for efficient and honest courts; and (d) developing a Manual for Civil Society Court Engagement.

Building Constituency for Reforms

Chamber to Chamber Phase II: Dialogs with the Foreign Business Sector and Integration of Mediation in Business. This project builds on the gains of the first series of dialogs between the judiciary and the business sector launched by the Supreme Court's Program Management Office from November 2003 to July 2004. Phase I succeeded in addressing the judiciary's role and its reform agenda as well as the business community's concerns regarding the administration of justice in the country. Among the major recommendations generated through the dialogs were to promote the use of ADR mechanisms in settling business-related disputes and to consider the meaningful participation of the foreign chambers of commerce whose members have significant foreign investments in the country.

Based on these considerations, a second series of dialogs was launched in September 2004 with the local and foreign chambers who were not part of the first series of dialogs. A new feature was added in these dialogs by integrating ADR in the discussions. As of this reporting period, dialogs have already been carried out with the Canadian and Australian/New Zealand chambers in Manila, and subsequently with the local business chambers of Palawan. Seven dialogs with the other local and foreign chambers are scheduled to take place in the first quarter of 2005.

Justice Link: Institutionalizing Citizen's Feedback Mechanism in the Judiciary. The Asia Foundation, in coordination with the Supreme Court's Program Management Office and the Philippine-Australian Governance Facility, supported an Alternative Law Group activity to conduct nine regional dialogs between the Supreme Court and grassroots organizations and communities in the country. The purpose of these regional dialogs is to improve public trust and confidence in the judiciary, and to strengthen collaboration among the civil society, the judiciary and grassroots communities in improving the administration of justice and access to justice by the poor. One of the important documents expected to be generated from this project is a draft legal instrument necessary to institutionalize a citizen's feedback mechanism in the judiciary.

The first attempt at dialog happened in October 2004 in Cagayan de Oro City. However, due to some issues raised both by the representatives of the judiciary and the partner organizations of the Alternative Law Groups on the process, the initial activity was not productive and the other dialogs have not yet been scheduled. The Asia Foundation is currently working with the Supreme Court and the Alternative Law Groups on how the objectives of the project can possibly be met in the succeeding period.

Strengthening Judiciary-Media Relations. Beginning in January 2004, the Asia Foundation partnered with the Asian Institute of Journalism and Communications in its efforts to strengthen the working relationship of the judiciary and media to ensure a balance between judicial transparency and judicial independence, and to promote substantive multi-sectoral support for an effective, independent, and efficient judiciary. During the reporting period, several workshops and capacity-building activities were organized by the Institute to achieve the objectives of the LADR project. For instance, a roundtable discussion on media and the judiciary was attended by 51 participants from the judiciary, print and broadcast media, media organizations, and the academe; four consultation workshops among the members of the judiciary and the media in Manila, Cebu, Cagayan de Oro and Angeles City elicited comments and suggestions on the draft manual on Judiciary-Media Relations and other issues affecting media coverage of the judiciary; and two workshops for media executives and reporters reviewed draft guidance material for journalists covering the courts.

This activity, which ended in October 2004, produced a draft *Guidebook for Journalists Covering the Courts* and a *Glossary of Legal Terms for Media Practitioners*. Both documents were pre-tested with journalists. These materials, together with the draft *Comprehensive Communication Plan for the Supreme Court* developed under LADR and

other project recommendations, are currently being reviewed by the Supreme Court. A proposal for a second phase, particularly on the use of the *Comprehensive Communication Plan*, including discussions on the implementation of a coordinating mechanism to execute the plan, is being considered by the Foundation.

Public Information and Access to Justice

Supreme Court-Initiated Studies on Improving Access to Justice and Court Efficiency.

In line with the goals of its Action Program for Judicial Reform, the Supreme Court's Program Management Office, in collaboration with the Lawyers' League for Liberty, the Humanitarian Legal Assistance Foundation, and the Office of the Court Administrator developed a framework for four studies on improving access to the justice system and increasing efficiency of court systems and procedures. The Asia Foundation supported three of the studies, namely:

- *Addressing Affordability Constraints on Access to Justice by the Disadvantaged.* This study primarily aims to identify viable opportunities for further expanding the scope and reach of free legal services through policy and program reforms. A literature review of the state of free legal services in the country and multi-stakeholders' workshops were undertaken by the Lawyers' League for Liberty during this period to determine options and formulate measures to address affordability constraints to access to justice by the poor. A draft legal instrument implementing the proposed measures and programs will be generated from this activity.
- *Expanding the Scope of the Rule on Criminal Procedure for Criminal Cases to Expedite Delivery of Justice.* This study aims to conduct a comprehensive review of current summary procedures for criminal cases and to recommend the inclusion of more types of criminal cases in the scope of the rules to further expedite the delivery of justice. The Lawyers' League for Liberty reviewed related literature to identify best practices and conducted an experts' workshop to uncover issues and generate recommendations on the subject. The workshop was attended by public attorneys, public prosecutors, members of the Integrated Bar of the Philippines, alternative law groups, law practitioners, and trial court judges. The Lawyers' League for Liberty finally managed legal writing sessions for the drafting of legal instruments that would implement the recommendations.
- *Study of the Expansion of the Scope of Recognizance.* Carried out by the Humanitarian Legal Assistance Foundation, this study seeks to determine the possibility of expanding the scope of recognizance⁶ as a practicable means of decongesting the jails by conditionally releasing qualified detainees who are

⁶ In this study, "recognizance" refers to a court process wherein the accused who cannot afford to post bail is released from detention on the strength of the guarantee of a respected citizen or group that the accused will appear for trial.

awaiting trial. A review of current laws, jurisprudence, and practices on recognizance in the country and in other jurisdictions, particularly the United States, was undertaken. The study also included focus group discussions and interviews with judges, prosecutors, public attorneys, and other persons who are directly involved in the criminal justice process, as well as with members of religious groups, local government officials, and citizens who might serve as custodians of persons released on recognizance. A legal instrument will also be produced to implement the recommendations generated from the study.

In order to get feedback from the primary stakeholders on the validity of these studies, including the study made by the Office of the Court Administrator on the *Compulsory Submission of Memoranda*, The Asia Foundation provided support to the Supreme Court's Program Management Office for the conduct of consultations with selected judges, lawyers, and other stakeholders throughout the country to substantiate the results and recommendations of the four judicial reform studies. Entitled *Consultations with the Bar and Bench*, these activities are scheduled to be held in Manila, Pampanga, Cebu and Davao in March 2005.

National Forum on Access to Justice through Reforms in the Five Pillars of Justice.

This program was developed by the Supreme Court-Program Management Office along with the other pillars⁷ of the justice system in the context of the multi-sectoral campaign festival on governance reforms in the Philippines that was organized by the Philippine Government and the United Nations Development Program Portfolio on Enabling Environment: Poverty Reduction through Good Governance. Noting that the Supreme Court was the executing agency in the judicial reform program under its Governance Portfolio, the Foundation sponsored the Program Management Office in its conduct of a national forum where government agencies and civil society organizations can reach agreements on reforming the five pillars of justice through a covenant. Specifically, the Foundation supported the participation of representatives from the Supreme Court, Bureau of Corrections, Board of Pardons and Parole, Probation and Parole Administration, Public Attorneys Office, Bureau of Jail Management and Penology, Commission on Human Rights, and Alternative Law Groups, as well as the documentation of the forum proceedings. The national forum was held in December 2004.

Reproduction of Tarpaulins to Disseminate the Action Program on Judicial Reform.

During the reporting period, LADR provided support to the Supreme Court's Program Management Office which allowed them to produce and disseminate 1,137 Action Program for Judicial Reform tarpaulin banners to all Halls of Justice and court houses in the country. This was done to publicize the numerous projects undertaken by the Supreme Court in reforming the judicial system to enable it to function effectively and to build public trust and confidence, and acknowledging the importance of disseminating

⁷ The five pillars of the criminal justice system are the following: (1) law enforcers; (2) prosecutors; (3) courts; (4) correctional institutions; and (5) community.

information on the judiciary and its reform endeavors, It is envisioned that this project will enhance and strengthen support for the Action Program by effectively making the stakeholders, court users, and the general public aware of the ongoing judicial reform initiatives. It is envisioned that by increasing public awareness of the judiciary's reform efforts, the Filipino people in general will be encouraged to contribute to, participate, and support the Supreme Court's initiatives, which in the long run, will help in improving the administration of justice in the country. As of this reporting period, the Program Management Office has already accomplished the production and dissemination of the tarpaulin banners.

Electronic Public Commenting Facility Pilot Project with the National Telecommunications Commission. In its attempt to enhance private sector participation in formulating government policies through public consultation and the use of technology, the Cyberspace Policy Center for Asia Pacific, with support from The Asia Foundation in May 2004, designed an ePolicy Facility for the National Telecommunications Communication, a government agency that issues numerous regulations affecting the interests of various stakeholders. The ePolicy was envisioned to work as a "proof of concept" for adoption by other similar executive agencies and by members of the Philippine Congress. As currently designed, the ePolicy features an Electronic Rulemaking Website accessible to the public and registered users, who may then submit position papers and comments regarding draft rules and regulations. Registered holders and stakeholders may be invited to participate in the Working Group discussions.

During this period, the Cyberspace Policy Center engaged the leadership of the Commission in a series of meetings where they discussed the functionalities of the proposed facility, specifically with respect to its preferred public commenting features, the facility's management concerns, and their desired phases for the project. The Asia Foundation noted the openness of the Commission in the development of the software as a catalyst for re-engineering the agency that is premised on adequate training provision in the conduct of public consultation, information processing and evaluation, as well as crafting of appropriate guidelines for the public's usage of its functions.

Baliklaya (Return to Freedom): A Jail Decongestion Project. The Asia Foundation awarded this grant to the Integrated Bar of the Philippines in November 2003 to address the problem of jail decongestion, which has arisen due to inadequate prison facilities for the corresponding number of prisoners. Lack of representation by lawyers and shortcomings in the justice system have contributed to the increase in the number of overstaying prisoners⁸ in the nation's jails. The grant was extended in August 2004 to facilitate the release of additional prisoners and the training of more paralegals. As of

⁸ Considered as "overstaying prisoners" are the following: (a) those who have already served the maximum penalty imposable by law for the crime for which a detainee has been accused or is being tried; (b) those who have already served the maximum period of the penalty imposed by the court; and (c) those who are qualified for parole, commutation of sentence, or pardon, as may be determined by the Board of Pardons and parole of the Department of Justice.

December 31, 2004, a total of six hundred twenty-seven overstaying prisoners in Manila and Pasay cities have been released through this project. This figure far exceeded the project's target number of only four hundred overstaying prisoners to be released. During this reporting period, two hundred eight new paralegals have also been developed and trained on the basic principles of criminal law and procedure.

Popularization of the Code of Muslim Personal Laws in the Autonomous Region of Muslim Mindanao (ARMM) (Phase II) and Conduct of Focus Group Discussions with Shari'ah Court, Judges, Lawyers and Muslim Communities on the Shari'ah. The Al-Mujadilah Development Foundation received Foundation support in September 2003 to popularize the Code of Muslim Personal Laws⁹ in five areas of the ARMM: Marawi City, Bongao (Tawi-Tawi), Lantawan (Basilan), Jolo (Sulu) and Sultan Kudarat (Maguindanao) through the translation of the Code of Muslim Personal Laws in Sama and Maguindanaon languages, and publication of illustrated primers in five local languages (Tausug, Maranaw, Yakan, Sama and Maguindanaon). The grant was revised during this period to include the publication of the illustrated primer in English language for use of law students and researchers. As of this reporting period, the Maranaw, Maguindanaon and English versions of the primer have been published. The primers were initially disseminated during the community-based education sessions on the Code held in Cotabato and Marawi cities in December 2004 attended by a total of seventy-two representatives from non-governmental and people's organizations, government, and multi-sectoral groups.

Challenges in Implementing the Program

Over-all, the implementation of the Legal Accountability and Dispute Resolution (LADR) program during this period continued to be successful. Important projects were launched with the usual strong support from partners within and outside the judiciary. An interesting development of this period was the forging of partnerships with new institutions from the business and civil society sectors. The Asia Foundation also managed to facilitate positive communication in judicial reform projects that require collaboration among various organizations.

Program management was enhanced with the conduct of a Grants Management Seminar with 17 representatives from key Foundation partners in November 2004. Through this activity, grantees were able to appreciate the Foundation's program processes and standard requirements. They also had the opportunity of experiencing Quickbooks, the current accounting system used by the Foundation for grants management. Copies of the accounting software system were donated to the participants for use by their respective organizations. This activity will certainly assist the grantees' compliance and help the

⁹ Presidential Decree No. 1083 (977), otherwise known as The Code of Muslim Personal Laws (CMPL), provides the rules governing the personal status, marriage and divorce, matrimonial and family relations, succession and inheritance, and property relations of spouses in Muslim communities.

Foundation in pursuing the implementation of its improved schemes for monitoring project activities.

One major challenge encountered during this period pertains to the management of communications between partner institutions in projects that require intensive collaboration. This is exemplified by the Justice Link project of the Supreme Court-Program Management Office and the Alternative Law Groups, Inc. where the proponents envisioned productive dialogs between the judiciary and the grassroots communities and organizations about the administration of justice and access to justice by the poor in the country. The Asia Foundation noted the unmet expectations of the proponents during the initial dialog, primarily attributed to process issues, which affected the success of the activity and stalled subsequent initiatives. To address this problem, The Asia Foundation, with its in-house expertise on participatory process facilitation, aided the parties in managing the discussions. Discerning that both institutions are still inclined to pursue the collaborative partnership, the Foundation anticipates that this challenge will be hurdled in the next period.

Another pervading challenge during the reporting period is the extraneous delay in project implementation by a number of the Foundation's partners. The Asia Foundation is making efforts to help partner organizations overcome internally-driven concerns, while mitigating those caused by external factors. For instance, a legal opinion has been sought about how the Philippine Judicial Academy can possibly implement its project within the desired period without violating the provisions of the Procurement Law on its protracted bidding process. Work plans and bi-monthly progress reports submitted by partners nonetheless enabled the Foundation to keep track of project activities and ensure timely delivery of project outputs.

Dealing with questions on judicial corruption remains a sensitive issue and therefore continues to pose a challenge for the Foundation. Given the Foundation's positive rapport with the Supreme Court on its judicial reform initiatives, difficulty was experienced in mounting an anti-corruption project during this period.

As the Foundation pursues the implementation of the program in the succeeding period, it anticipates the major challenge of sustaining the push for judicial reforms currently valued under the robust leadership of Supreme Court Chief Justice Hilario Davide Jr. and his competent Program Management officials. With the retirement of the incumbent Chief Justice in December 2005, The Asia Foundation is actively repositioning itself to respond to this event, as well as respond to any unforeseen challenges, in order to be able to make perceptive adjustments to its program strategies.

Plans for the Next Period

In the next reporting period, The Asia Foundation will build upon previous accomplishments and institutionalize ADR within and outside of the courts system. With the results of the evaluation of the court-annexed mediation project at hand, the

implementation of a nationwide court-annexed mediation as well as the conduct of a study on the business and organizational aspects of the Philippine Mediation Center will be seriously considered. Mediation in the Court of Appeals will also be advanced as the mediators trained within this period would be given the opportunity to mediate actual cases through an internship program. Outside of the courts, ADR will continue to be pursued among members of the business community, the legal profession, Department of Justice, and prominent members of society who will be champions of mediation in their respective professions. The design of additional activities will be in line with the issuance of the Implementing Rules and Regulations for the ADR law currently in Congress for review and approval.

The Asia Foundation also plans to enhance its efforts towards jail decongestion by looking at the ongoing support provided to the Integrated Bar of the Philippines in its jail decongestion project, specifically focusing on sustaining the initiative with the Bar chapters nationwide. The Asia Foundation will forge agreements with law school-based institutions, lawyer's organizations, and legal resource organizations in aiding specific prisons through law internship programs, publication of guide materials for inmates and their defenders in the disposition of prisoners' cases, and development of a simplified inmate records system.

To complement the teaching of law inside the classrooms, law students will be encouraged to help in de-clogging court dockets through internship programs with the courts. The Asia Foundation will replicate its successful Pilot Judicial Apprenticeship Program with the participation of more law schools in Metro Manila and with support from the leading judges' association in the country. Through supervised legal research and decision drafting, this program will assist the first and second level courts to de-clog their dockets and reduce their caseload. Expansion of these efforts to law schools based in Mindanao and in the Shari'a courts will also be explored in the next period.

In the upcoming reporting period, LADR will finally pursue activities that will galvanize the working relationship of the judiciary and media in achieving a balance between judicial transparency and independence through utilization of the developed Comprehensive Communication Plan for the Supreme Court. Engagement by the civil society in judicial reform efforts will continue to be supported through court monitoring initiatives and collaborative publication of legal handbooks for the public.